

Mr Daniel O'Leary  
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**STRICTLY PRIVATE & CONFIDENTIAL**

By e-mail: daniel.oleary@bng.ie

CL/HC/BOR1/278

27 November 2007

Dear Daniel,

**Re: Purchase of lands at Greenpark, Limerick (hereinafter called "the Property")**

I refer to our meeting last Friday 23<sup>rd</sup> November last and arising therefrom, would make the following preliminary observations:

1. You should arrange for your own architect or engineer to inspect the Property on the ground to ascertain its condition and suitability or otherwise for development purposes. This inspection is required because the Vendor is not giving any warranties in relation to compliance of the Property with Planning and Building Regulations and the Vendor has put the onus on the Purchaser to satisfy itself as to the state and condition of the Property and the identity, including boundaries thereof. In the course of this inspection, this architect or engineer should also be instructed to check the boundaries of the Property to ensure that they correspond with the boundaries thereof, as reflected on the legal map. Obviously, a map showing the boundaries of the Property will be required to facilitate the foregoing inspection. You will note that I have not yet received a map showing the boundaries of the Property and I note that you are to determine who will be responsible for the preparation of this map.
2. I note that the Board has arranged for site investigation works to be undertaken and you might please let me know the outcome thereof once this inspection has concluded and report prepared thereon.
3. So that we can consider the overall picture, we need to see the master plan so as to establish what other developments are contemplated in the vicinity of the Board's development and I note that you will endeavour to obtain a copy of same for me.
4. The Planning Condition set out at Clause 16 of the Site Contract will need to be revisited and amended substantially to reflect the fact that it is now the Vendor who will be lodging the Planning Application on behalf of the Purchaser, as opposed to the Purchaser. I also understand that this Planning Application will only relate to the development of the

stadium and car parking area. The Board should review this Planning Application in conjunction with its architect/engineer before submission of same to the Planning Authority to ensure that it is satisfied with same. I am assuming that the Board's architect/engineer is liaising directly with the Vendor's architect/engineer in this regard. In respect of the time frame for obtaining Planning Permission, I note your wish, to have the time limit for obtaining a Grant of Planning Permission extended to allow for the issuing of the determination of An Bord Pleanala in the event of an appeal. As agreed, this can be amended to provide for an extension of the period of time for obtaining Planning Permission until such time as the determination of An Bord Pleanala issues or a specific date, whichever is the later. I note that you are to establish if the Board still wishes to have the option to acquire the site, in the event that Planning Permission is not obtained. You will be aware that under the Contract, if Planning Permission is not obtained, then the Contract may be terminated by either party.

5. The position with regard to what services are being provided and easements to be granted in respect thereof for the benefit of the Board and the Property needs to be ascertained and provision made for same in the Contract and the Lease to be effected on foot thereof.
6. I note that many of the conditions, in particular with regard to appointment of the various professionals in respect of the development of the stadium, are inappropriate, in view of the public procurement/tendering issues that they raise and accordingly, these conditions will require to be deleted from the Site Contract.
7. We need to establish the position with regard to the construction road during the construction phase including, what routes of access will be available in this regard, if there are works being undertaken by other parties in the vicinity and if so, will they have the right to use these roads and, the intensity of such user. I note from you that it is the Board's engineer's understanding that the spine road is to be used as the construction road, in that no other route has been designated to the engineer. However, Special Condition number 23 of the Site Contract suggests otherwise, in that it refers to an alternative route of access. This matter as to access will need to be clarified accordingly.
8. The position with regard to the wayleave in favour of Clare County Council needs to be ascertained and what requires to be done to protect this wayleave and also to ensure that the Board can implement its development programme with this wayleave in situ. We will need a copy of the Statutory Notice providing for this wayleave, together with a map showing the route of same.
9. I note that you require a condition inserted in the Contract providing that the Vendor will be obliged to apply for a fill licence and under that licence will fill the site of the stadium and car parking area at the Vendor's cost to a specified standard as agreed by the respective engineers appointed by both the Vendor and the Purchaser, with

provision for the matter to be referred to arbitration in the event of a dispute. I further note that if the Vendor is not successful in obtaining this fill licence, then it will be the responsibility of the Board at its own cost to attend to the filling of these lands. However, in order for the Board to do so, I assume that it will be subject to the same requirements, namely applying for a fill licence and as I advised you, the Board will need to be mindful that it may not obtain this licence and if so, how will the Board address this issue? I note that you are to look further into this matter and revert to me.

10. I have checked the Stamp Duty position and the Purchaser will be liable for Stamp Duty at the rate of 9% of €3,369,000.00 (to include the sum of €120,000.00 as discussed), i.e. €303,210.00.
11. The points raised in Atkins' letter to Owen O'Doherty dated 22<sup>nd</sup> November 2007 also need to be considered and provision made for same, where appropriate in the Contract documentation.
12. In respect of the draft Development Agreement regarding the car parking area, plans, specifications and drawings in general will be required before we can comment sufficiently on same. The Contract Price needs to be clarified as it is unclear at this stage and dependent on the number of car spaces permitted by Planning Permission.
13. In respect of the draft Licence Agreement:
  - (i) A set of drawings will be required.
  - (ii) The basis of calculation of the service charge, which is by reference to user, needs to be clarified.
14. In the context of the draft Lease, you might note that the basis of calculation of the service charge is by reference to floor area. I would submit that this method of calculation needs to be revised to take into account other factors in addition to floor area, such as the type of user of the development in question, the cost of construction thereof and use of the services provided by the Management Company.
15. In relation to the draft Lease, I will furnish you with a summary of the contents thereof under separate cover; however, being mindful of the fact that this only represents a first draft at this stage.

You will be aware that the draft documentation furnished cannot definitively be commented upon until I receive maps showing the boundaries of the Property, a copy of the master plan and also replies to the foregoing queries. The map of the Property will also be required to enable me determine the title thereto.

I look forward to hearing from you in relation to the foregoing matter at your early convenience.

Yours sincerely,

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